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**JUL 10 2006**

**OFFICE OF PETITIONS**

In re Application of :  
Styczynski et al. : DECISION ON PETITION  
Application No. 09/893,252 :  
Filed: June 27, 2001 :  
Atty Docket No. 00216-552001 :  
/H-245 (KAY) :

This is a decision on the "PETITION TO WITHDRAW NOTICE OF ABANDONMENT" filed June 12, 2006.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed October 19, 2005. This Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a). No reply considered received and no extension obtained, the above-identified application became abandoned on January 20, 2006. A Notice of Abandonment was mailed on June 2, 2006.

In response, applicants timely filed the instant petition. Petitioner states that a reply to the Office action including a certification that the reply was deposited with the United States Postal Service as first class mail with sufficient postage on January 13, 2006. In support thereof, petitioner submits *inter alia* a copy of the response as filed and a statement of timely mailing by Sherry Hunt, the attorney's secretary who signed the certificate of mailing under § 1.8.

37 CFR 1.8(b) provides that:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding

is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

On instant petition, petitioner has satisfied the requirements of 1.8(b) to have the response considered timely filed by virtue of the certificate of mailing dated January 13, 2006.

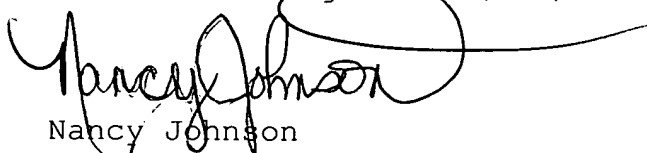
Accordingly, the Notice of Abandonment mailed June 2, 2006 is hereby VACATED, and the holding of abandonment is hereby WITHDRAWN.

The petition under § 1.181 is GRANTED.

No fee is required on petition under § 1.181.

Technology Center AU 1617 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical staff to withdraw the holding of abandonment and for the examiner to consider the response to the Office action resubmitted on petition filed June 12, 2006.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.



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Office of Petitions